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Mediator

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	Chapter 7
In re:	:	No. 22-10123 (MG)
	:	
BMT DESIGNERS & PLANNERS INC.,	:	
	:	
Debtor.	:	
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REPORT OF MEDIATOR

1. I am a retired judge of this Court and was designated to mediate issues between (i) Vigor Works LLC (“**Vigor**”), and (ii) Salvatore LaMonica, as Trustee of the chapter 7 estate of Debtor BMT Designers Inc. (“**Trustee**,” and together with Vigor, the “**Mediation Parties**”). I submit this report pursuant to Rule 9019-1 of the Local Rules of this Court; ¶ 3.4 of the Court’s Procedures Governing Mediation of Matters and the Use of Early Neutral Evaluation and Mediation/Voluntary Arbitration in Bankruptcy Cases and Adversary Proceedings; and this Court’s Order Referring Dispute to Mediation, dated June 21, 2023 (ECF#209), directing compliance with the foregoing.

2. I conducted a mediation session with the participation of each of the Mediation Parties, in person, on October 5, 2023. I additionally had Zoom communications and telephonic conversations (jointly and individually), and exchanges of emails (too numerous to describe with greater particularity), with counsel for the Mediation Parties before the mediation session and thereafter. As the Mediation Parties

had authorized and requested me to do, I shared with them, over the course of the mediation, views I formed with respect to potential outcome and risk if they were to litigate, and business advantages that could be achieved if they were to reach a settlement as an alternative to litigation. Late in the day of the mediation, the Mediation Parties reached a settlement, to be embodied in a Term Sheet, and thereafter, a Stipulation of Settlement to be So Ordered by the Court.

3. Both Mediation Parties participated in the mediation session (with client representatives with satisfactory authority present), and in my opinion, each Mediation Party engaged in the mediation in good faith.

4. With the mediation having turned out successfully, I understand that the Mediation Parties are now undertaking the remaining documentation of the settlement. It is my further understanding that a 9019 motion with respect to the settlement will be filed in the near future.

Dated: Warren, Connecticut
October 23, 2023

s/ Robert E. Gerber